



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

The Honorable Stephen Ira Cohen  
United States House of Representatives  
2404 Rayburn House Office Building  
Washington, DC 20515

OCT 20 2016

Henry M. Turley, Treasurer  
Steve Cohen for Congress  
349 Kenilworth Place  
Memphis, TN 38112

RE: MUR 6854


Dear Representative Cohen and Mr. Turley:

On July 24, 2014, the Federal Election Commission notified Steve Cohen for Congress and Henry M. Turley in his official capacity as treasurer ("the Committee"), and Representative Steven Cohen, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. On October 7, 2016, based upon the information contained in the complaint, and information provided by the Committee, the Commission decided to exercise its prosecutorial discretion to dismiss the complaint and close its file in this matter. Accordingly, the Commission closed its file in this matter on October 7, 2016.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66,132 (Dec. 14, 2009). A copy of the dispositive General Counsel's Report is enclosed for your information.

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**Sincerely,**

  
Jeff S. Jordan

**Enclosure**  
**General Counsel's Report**

RECEIVED  
FEDERAL ELECTION  
COMMISSION

**BEFORE THE FEDERAL ELECTION COMMISSION**

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**ENFORCEMENT PRIORITY SYSTEM  
DISMISSAL REPORT**

**MUR: 6854**

**Complaint Receipt Date: July 18, 2014**

**Response Date(s): August 18, 2014  
August 21, 2014**

**Respondents: Steve Cohen for Congress, and  
Henry Turley, as treasurer CELA  
(collectively the "Committee")**

**Alleged Statutory/  
Regulatory Violations:**

**52 U.S.C. §§ 30120(a)(1), (d)(1)(A)  
11 C.F.R. §§ 110.11(b)(1), (c)(3)(i)**

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The Complaint alleges that Steve Cohen for Congress, the authorized committee of Congressman Steve Cohen, violated the Federal Election Campaign Act of 1971, as amended ("the Act") and Commission regulations by airing a radio advertisement with a disclaimer stating that the candidate had approved its contents, but the candidate later stated publicly that he had not approved the advertisement in the form it was broadcast.<sup>1</sup> After the advertisement aired, the candidate informed news outlets that he had authorized the script of the ad, but had not approved the final audio version of the ad, despite the disclaimer saying otherwise. The Act requires that radio communications by candidates contain a disclaimer including, among other things, a spoken statement that identifies the candidate and states that the candidate approved the communication. The disclaimer here was technically compliant, because at the time the Committee created and distributed the ad, it included a spoken statement that the candidate approved the communication, despite the candidate's subsequent statement that he disapproved how the ad was recorded. The Committee admits that it distributed the ad to radio stations, but the Committee and the candidate both state that the Committee attempted to pull the advertisement from all radio stations after the

<sup>1</sup> According to the complaint, the content of the ad was read in a voice that some listeners considered objectionable.

candidate decided that the final product did not meet his approval, but some stations had already aired it.

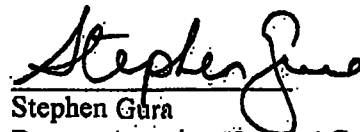
Based on its experience and expertise, the Commission has established an Enforcement Priority System using formal, pre-determined scoring criteria to allocate agency resources and assess whether particular matters warrant further administrative enforcement proceedings. These criteria include (1) the gravity of the alleged violation, taking into account both the type of activity and the amount in violation; (2) the apparent impact the alleged violation may have had on the electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent trends in potential violations and other developments in the law. This matter is rated as low priority for Commission action after application of these pre-established criteria. Given that low rating and the other circumstances presented, we recommend that the Commission dismiss the allegations consistent with the Commission's prosecutorial discretion to determine the proper ordering of its priorities and use of agency resources. *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985). We also recommend that the Commission close the file as to all respondents and send the appropriate letters.

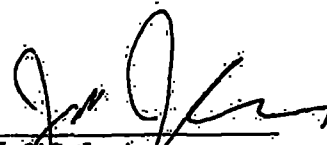

Daniel A. Petalas  
Acting General Counsel

Kathleen M. Guith  
Acting Associate General Counsel  
for Enforcement

9.1.16  
Date

BY:

  
Stephen Gara  
Deputy Associate General Counsel  
for Enforcement

  
Jeff S. Jordan  
Assistant General Counsel  
Complaints Examination  
& Legal Administration  
Donald E. Campbell  
Attorney  
Complaints Examination  
& Legal Administration

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